

HOUSE BILL REPORT

ESSB 6427

As Reported by House Committee On: Local Government

Title: An act relating to schedules for the review of comprehensive plans and development regulations for certain cities and counties.

Brief Description: Concerning schedules for the review of comprehensive plans and development regulations.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Mulliken, Morton and Rasmussen; by request of Department of Community, Trade, and Economic Development).

Brief History:

Committee Activity:

Local Government: 2/23/06 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

- Allows counties and cities meeting specific population requirements to satisfy review and revision requirements of the Growth Management Act (GMA) 36 months after applicable deadlines.
- Allows counties and cities complying with the extension provisions to receive financial assistance and preferences from certain accounts.
- Allows jurisdictions fully planning under the GMA to amend their comprehensive plans more frequently than annually to enact a planned action if public participation and notification requirements are satisfied.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives Simpson, Chair; Clibborn, Vice Chair; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan, Takko and Woods.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act

Enacted in 1990 and 1991, the Growth Management Act (GMA or Act) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

Planning jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Except in limited circumstances, comprehensive plan amendments may be considered by the governing body of the planning jurisdiction no more frequently than once per year. Planning jurisdictions also must adopt development regulations that are consistent with and implement the comprehensive plan.

Comprehensive plans and development regulations are subject to continuing review and evaluation by the adopting county or city. Except as otherwise provided, planning jurisdictions must review and, if needed, revise their comprehensive plans and development regulations according to a recurring seven-year statutory schedule. Jurisdictions that do not fully plan under the GMA must, except as otherwise provided, satisfy requirements pertaining to critical areas and natural resource lands according to this same schedule. The schedule is as follows:

- on or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;
- on or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;
- on or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and
- on or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

Counties and cities required to satisfy the review and revision requirements by December 1, 2005, December 1, 2006, or December 1, 2007, may comply with the requirements for development regulations that protect critical areas (critical areas regulations) one year after the applicable statutory deadline.

Only counties and cities in compliance with the review and revision schedule of the GMA, and counties and cities demonstrating substantial progress towards compliance with the schedule for critical areas regulations, may receive grants, loans, pledges, or financial guarantees from

the public works assistance and water quality accounts established in the State Treasury. A county or city that is fewer than 12 months out of compliance with the schedule is deemed to be making substantial progress towards compliance. Additionally, only counties and cities in compliance with the review and revision schedule may receive preferences for financial assistance from the public works assistance and water quality accounts.

State Environmental Policy Act

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify possible environmental impacts that may result from governmental decisions, including the issuance of permits or the adoption of or amendment to land use plans and regulations. Any governmental action may be conditioned or denied pursuant to the SEPA, provided the conditions or denials are based upon policies identified by the appropriate governmental authority and incorporated into formally designated regulations, plans, or codes.

Provisions of the SEPA generally require a project applicant to complete an environmental checklist. An environmental checklist includes questions about the potential environmental impacts of the proposal. This checklist is then reviewed by the lead agency (one agency identified as such and responsible for compliance with procedural requirements of the SEPA) to determine whether the proposal is likely to have a significant adverse environmental impact. This process is referred to as making a threshold determination. The determination is made in a determination of significance (DS), a determination of nonsignificance (DNS), or a mitigated DNS (MDNS), which includes mitigation conditions for the project. A DS requires an environmental impact statement (EIS).

Local governments and state agencies must prepare an EIS for legislation and other major actions having a probable significant, adverse environmental impact. The EIS includes detailed information about the environmental impact of the proposed action, any adverse environmental effects that cannot be avoided if the proposal is implemented, and alternatives, including mitigation, to the proposed action.

Categorical exemptions from the EIS and other requirements for actions meeting specified criteria are provided in the SEPA. Categories of government actions that are not considered as potential major actions significantly affecting the quality of the environment are also defined in administrative rules.

Other exemptions to the SEPA requirements are provided in law. A "planned action" in a planning jurisdiction does not require a threshold determination or the preparation of an EIS. These actions, however, are subject to certain environmental review and mitigation measures provided in the SEPA.

A planned action is defined to mean one or more types of project action that meet certain criteria, including:

- being designated as planned actions by an adopted ordinance or resolution of a planning jurisdiction;

- having had the significant impacts adequately addressed in an EIS prepared in conjunction with: a comprehensive plan or subarea plan adopted under the GMA; or a fully contained community, a master planned resort, a master planned development, or a phased project; and
- being consistent with a comprehensive plan adopted under the GMA.

Planning jurisdictions must limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the local government. These jurisdictions may limit a planned action to a time period identified in the EIS or the ordinance or resolution, subject to statutory requirements.

Summary of Amended Bill:

Qualifying counties that are obligated to satisfy the review and revision requirements of the GMA by December 1, 2005, December 1, 2006, or December 1, 2007, and every seven years thereafter, may comply with the requirements at any time within 36 months after the applicable statutory deadlines. A county exercising this extension must have:

- a population of less than 50,000; and
- had a population increase of 17 percent or less in the 10 years preceding the applicable statutory deadline, as of that date.

Applying the extension scheme to cities, qualifying cities that are obligated to satisfy the review and revision requirements of the GMA by December 1, 2005, December 1, 2006, or December 1, 2007, and every seven years thereafter, may comply with the requirements at any time within 36 months after the applicable statutory deadlines. A city exercising this extension must have:

- a population of 5,000 or fewer; and
- had a population increase by the greater of either 100 or fewer persons, or 17 percent or less, in the 10 years preceding the applicable statutory deadline, as of that date.

Counties and cities complying with the 36-month extension provisions may receive financial assistance from the public works assistance and water quality accounts established in the State Treasury and are eligible for preferences from these accounts.

A county or city may amend its comprehensive plan more frequently than annually to adopt amendments necessary to enact a planned action that is in conformity with requirements of the SEPA. The amendments must be considered in accordance with existing public participation provisions and all persons who have requested notice of a comprehensive plan update must be given notice of the proposed amendments and an opportunity to offer comments.

Amended Bill Compared to Engrossed Substitute Bill:

Existing statutory provisions are restored and new law is inserted, respectively, specifying that counties and cities demonstrating substantial progress towards compliance with the review

and revision schedules of the GMA for development regulations that protect critical areas, or complying with 36-month extension provisions, may receive financial assistance from the Public Works and Water Quality Accounts. Deleted statutory language providing that a county or city that is fewer than 12 months out of compliance with the review and revision schedules for certain development regulations is making substantial progress towards compliance is restored. A new provision is added to specify that a county or city complying with the 36-month extension provisions may receive preferences for financial assistance from the public works and water quality accounts.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill provides compliance choices to 114 smaller and slower-growing cities that are fulfilling the review and revision requirements of the GMA. The bill is an acknowledgment of differences between cities and it provides qualifying cities with an additional three years to complete their plan and regulation updates. Many cities that are eligible for extensions under this bill will continue on their current compliance schedules, without extending the process. This bill will also provide assistance to 15 small, slow-growing counties. This bill is agency-request legislation at the direction of the Governor: it applies to small communities, many of which do not have professional planning departments. Recurring review and revision cycles do and should continue under this bill. The provisions of this bill recognize that not all counties and cities have the same impact on the environment.

Testimony Against: None.

Persons Testifying: Dave Williams, Association of Washington Cities; Leonard Bauer, Department of Community, Trade and Economic Development; Eric Johnson, Washington State Association of Counties; and Kaleen Cottingham, Futurewise.

Persons Signed In To Testify But Not Testifying: None.